IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

District :

Misc. Civil Application No. 107 of 1992

Office Notes, Office Memoranda of Coram, appearances, Court orders or directions and Registrar's orders

Court's or Judge's orders

CORAM: C. L. PANGARKAR J.
Dated: 11th January, 2007.

This is an application under Section 114 of the Code of Civil Procedure Code against the order passed by this Court in Writ Petition No. 123 of 1982. Petitioner-Sudam Gawali had filed a complaint under the provisions of Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act under items (a)(b)(d) and (f). He had

prayed for declaration that his termination was bad and the relief of reinstatement with continuity of service and back wages. Reinstatement was granted but without back wages. Both the parties had challenged the order before the Industrial Court which dismissed the complaint of the petitioner on the ground that it was not maintainable in view of the provisions of Section 59 of the Act.

2. Being aggrieved by that order this writ petition No. 123 of 1982 was preferred. This Court held that in view of the fact that proceedings under Industrial Disputes Act were initiated before the Labour Commissioner a bar of Section 59 would apply and as such this Court dismissed the writ petition.

3. Learned counsel for the petitioner and the respondents were heard. Learned counsel for the petitioner submitted that the order passed by this Court is apparently wrong inasmuch as the provisions of law have not been considered at all and on facts it was alleged that the proceedings that were taken before the Labour Commissioner were not under Industrial Disputes Act and, therefore, bar under section 59 did not apply. The submission of the learned counsel for the petitioner is not correct. It appears that the petitioner had filed an application before the Labour Officer being I. D. A. No. 130/78 and the said petition was not registered as personal management advisory service. In view of the fact that the application was

registered under the Industrial Disputes Act it cannot now lie in the mouth of the petitioner that those proceedings were not under Industrial Disputes Act. In view of the fact that the petition before the Labour Officer was registered as I. D. A. No. 130/78 it is clear that the bar under Section 59 of the Act must apply. There is no error apparent on the face of record. Review application is, therefore, liable to be rejected.

JUDGE

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